Dear FCC,

These comments respond to various sections in the Matter of Schools and Libraries Universal Support Mechanism, Notice of Proposed Rule Making and Order released January 25, 2002.

The ensuing comments comprise the collective opinion of a Consortium of colleges and schools whose eligible partners have participated in, and benefited from the E-rate Program from its inception. In the following, the terms "Consortium," "Network," and "SVETN" shall refer interchangeably to the Southwest Virginia Education and Training Network, a 501(c)(3) corporation.

As regards "efficiency and fairness" in determining the eligibility of products and services (NPRM Section 14), SVETN supports the establishment of a pre-approved list of products and services from which a simple "check mark" selection could be made during electronic filing. We support this concept with these qualifications. There must be in place on the same form and place and a mechanism for the applicant to select a "none of the above" category and in so doing submit a written justification for proposing a new service or product that would then be separately described. Such a proposition must receive a prompt and thoughtful review that includes a written response and a subsequent provision for appeal to a higher authority in the event of an adverse response. Any new service, product or variation thereof granted in the process of petitioning its inclusion must be added to the on-line master list as quickly as feasible, perhaps within 48 hours, so that others may have the benefit of this new option.

Regarding wireless services (NPRM Section 21), SVETN encourages the broadening of eligible uses to include a comprehensive variety of wireless services. The test for acceptance should be based on the primary use of the service rather than whether it is wired or wireless.

SVETN encourages and supports the eligibility of voice-mail systems (NPRM Section 22). If an entity is eligible because its primary activity is education, it should be assumed that its voice-mail is used primarily to support its educational purpose.

Regarding ADA certification (NPRM Sec. 29), the Network believes that any certification of compliance in the Form 471 application process relating to Federal or state law is inappropriate and misplaced. This is not to suggest that citizens and schools should disobey laws but, rather, that the FCC, and by extension the Schools and Libraries Division of USAC, should not be in a position of enforcing Federal statutes. We assert that incorporation of an ADA certification requirement is outside the mandate of the E-Rate program. It should be noted that the CIPA certification requirement now currently in place was an instrument thrust upon the FCC and educators by Congress. The Commission should avoid voluntarily assuming responsibility for any certification issues not directly related to the equitable distribution of benefits to school and libraries or to the prevention of waste, fraud and abuse.

(NPRM Sec. 31). SVETN concurs that the proposed modification of =A7 54.501(d)(1) would clarify the present intent of the Commission with

regard to tariffed providers. However, we disagree with the intent and respectfully assert that non-eligible partners should not be excluded from receiving the benefits of a negotiated pre-discount price that is below-tariff. Our proposed solution is to strike everything in the modified paragraph beginning with "However...."

As regards choice of payment (NPRM Sec. 34), the Consortium feels that the choice must rest with the applicant. Our experience is that discounted invoices result in a bookkeeping and auditing nightmare. Our preference is to pre-pay and seek later reimbursement through the BEAR process. But we would not impose our choice on another entity whose circumstances differ. While service providers must be obligated to provide whichever plan the applicant initially prefers, the arrangement, once selected, must not be irrevocable. It is appropriate that the Applicant's preference be reviewed and restated annually.

The Network endorses and encourages a modification in the rules regarding Appeals (NPRM Sec. 52) that would extend to 60 days the time for appealing an adverse decision to either the USAC Administrator or to the FCC. Appeals should be regarded as having been received on the date they are post-marked rather than the date they are filed. This will remove a disadvantage for those of us in remote, rural areas.

SVETN is of the opinion that in the interest of fair and equitable distribution of resources the Administrator should fully fund successful appeals to the same extent they would have been funded in the initial application process (NPRM Sec. 55). In the event that funds for a current year are depleted, the Administrator should then use funds from the next year as they become available (NPRM Sec. 56). The funding for successful appellants should be provided in the order that decisions are released (NPRM Sec. 57) with exception that Priority Two services should, in our opinion, be withheld until Priority One appeals are satisfied.

The foregoing paragraph notwithstanding, the Consortium suggests that in practice there should be no need to reach ahead to encumber funds for future years, if it is the practice to retain all funds. In our view, the appropriate treatment of "unused funds" in any given program year is to retain those funds expressly for the support of applications that have been delayed or only partially funded until the resolution of their appeals.

Further, SVETN strongly urges modification of the funding rules to expressly require the distribution of unused funds in any program year without regard as to whether the amount eventually disbursed is in excess of the "annual cap." (NPRM Sec. 70) That is, the cap should refer to the amount allocated for a given program year and not to the amount actually disbursed, given that disbursements may include the settling of applications whose amounts were in the previous year under appeal. With the financial resources of schools and libraries so desperately inadequate in almost every jurisdiction, it is inappropriate to either return funds or credit funds already collected to reduce the contributor's obligations for subsequent years until such time as society's goals for making educational telecommunications services fully and affordably available to schools and libraries are achieved.
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